

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ASPEN LEAF CLEANERS,</p> <p>v.</p> <p>Respondent:</p> <p>JEFFERSON COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 55472</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on July 18, 2011, Sondra W. Mercier and MaryKay Kelley presiding. Mr. Christian J. Traynor, President, appeared for Petitioner. Respondent was represented by David Wunderlich, Esq. Petitioner is requesting an abatement/refund of personal property taxes on the subject property for tax years 2007 and 2008.

Subject property is described as follows:

**10143 West Chatfield Avenue, Unit 1, Littleton, Colorado
Jefferson County Schedule No. 911534**

The subject property consists of personal property used in Petitioner’s dry cleaning business.

Mr. Traynor testified that, although personal property declaration schedules were not submitted for tax years 2007 and 2008, the 2009 value was appealed and reduced to \$4,368.00. Because personal property was similar for the three tax years, Petitioner contends that the actual values for 2007 and 2008 should be reduced to \$5,250.00 and \$4,800.00, respectively.

Respondent’s witness, Jerry Black of the Assessor’s Office, outlined the statutory procedure for personal property valuation when no personal property declaration schedules are filed: two mailings of a personal property schedule to the taxpayer; if no response is received, then the Assessor uses the best information available (BIA) to value the personal property; if a taxpayer does not agree with the BIA valuation, then taxpayer can file a protest. Mr. Black testified that Petitioner

did not file a personal property schedule for tax years 2007 or 2008, did not respond to the two mailings subsequently sent by Mr. Black, and did not file a protest for tax years.

Respondent argues that this case is analogous to previous case law, where the holding was as follows:

When the taxpayer fails to return the information required by the personal property schedule, the assessor still must determine the value of the taxpayer's property, as we have previously stated, using the best information available to him or her. If the taxpayer believes that the valuation has been made in error, it must then file a protest in accordance with the statutory procedures set forth in section 39-5-122(2). **If the taxpayer neglects to avail itself of the procedure, the assessor's (BIA) valuation is presumed to be accurate and becomes the final valuation.** *Property Tax Administrator v. Production Geophysical Services, Inc.*, 860 P.2d 514, 519 (Colo. 1993) (emphasis added).

Respondent presented sufficient probative evidence and testimony to show that the Board does not have jurisdiction to change the subject property's personal property values for tax years 2007 and 2008.

The Board agrees with Respondent's application of *Production Geophysical* in this matter because the Board finds that Petitioner never returned personal property schedules to the Assessor (even after Mr. Black mailed Petitioner two personal property schedules), the Assessor valued Petitioner's personal property based on the BIA, and Petitioner did not protest the 2007 BIA valuation of its personal property. Accordingly, the BIA valuation is final, and the Board is bound by it.

ORDER:

The petition is dismissed.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

Section 39-10-114.5(2), C.R.S.

DATED and MAILED this 25 day of July 2011.

BOARD OF ASSESSMENT APPEALS

Sondra W. Mercier

Sondra W. Mercier

MaryKay Kelley

MaryKay Kelley

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

Amy Bruins
Amy Bruins

